

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-7355

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-X

RUTH E. BUCK,

Appellant,

-against-

THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK;
THE BOARD OF EDUCATION OF THE CITY OF NEW YORK;
IRVING ANKER, individually and as Chancellor of
Schools of the City of New York; THE COMMUNITY
SCHOOL BOARD OF SCHOOL DISTRICT #25, QUEENS;
THE PRESIDENT'S COUNCIL, DISTRICT #25, QUEENS;
DOROTHY KAYE, individually and as President of
the President's Council, District #25; and
others whose identities are unknown,

#75-7355

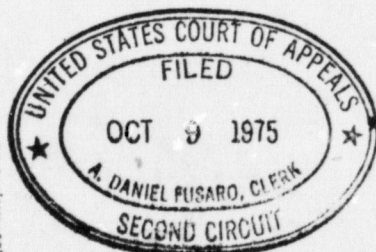
Appellees.

-X

APPENDIX

TO ACCOMPANY

PLAINTIFF'S BRIEF



Ruth E. Buck
Pro Se

33-38 163 Street
Flushing, New York 11358
212 539-8015

Copy Received
10-8-75 - 3:40 P.M.
Stanley Loss

PAGINATION AS IN ORIGINAL COPY

NOTE

I am a pro se litigant and have been advised that six copies of an appendix plus service of a copy on counsel for each party is acceptable for pro se litigants. This has been done and ^{admission of service} an affidavit filed accordingly. RRB

I have also been advised that for pro se litigants the appendix need only consist of a copy of the judge's order from which the appeal is taken, and a copy of the docket entries in the lower court. However, I have included other material from the record. Not all of my papers are included, but all of the papers submitted to the lower court by the opposing attorneys are included. These opposing papers are two: affidavit of defendant Dorothy Kaye, sworn to on June 3, 1975, and undated memorandum of attorney William DeWitt.

Also, the copy of the complaint that is included in this appendix has been copied line by line so that, if necessary at the time of argument, easy reference can be made to the original. It has also been copied on a larger typewriter than the original for ease in reading. For these reasons there was little room left for margins.

Respectfully,

Ruth E. Buck

Ruth E. Buck
Appellant, Pro Se.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

RUTH E. BUCK,

Plaintiff :

-against-

CIVIL ACTION

No. 75 C 761

THE BOARD OF ELECTIONS OF THE CITY OF NEW
YORK; THE BOARD OF EDUCATION OF THE CITY OF :
NEW YORK; IRVING ANKER, individually and as :
Chancellor of Schools of the City of New York; :
THE COMMUNITY SCHOOL BOARD OF SCHOOL DISTRICT :
#25, QUEENS; THE PRESIDENT'S COUNCIL, DISTRICT :
#25, QUEENS; DOROTHY KAYE, individually and as :
President of the President's Council, District :
#25, Queens; and others whose identities are :
unknown,

(Second Cir-
cuit Number
75 - 7355)

Defendants.

- - - - -X

COPY OF DISTRICT COURT DOCKET SHEET

Complaint..... (1)
Clerk's Order..... (2)
Plaintiff's Request for Admission..... (3)
Order to Show Cause..... (4)
Affidavit of Service..... (5)
Affidavit of D. Kaye..... (6)
Plaintiff's Memorandum of Law..... (7)
Memorandum and Order..... (8)
Judgment..... (9)
Notice of Appeal..... (10)
Memorandum of Law of Plaintiff..... (11)
Defendant's Memorandum of Law..... (12)
Clerk's Certificate..... (13)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
RUTH E. BUCK,

Plaintiff,

-against-

THE BOARD OF ELECTIONS OF THE
CITY OF NEW YORK, THE BOARD OF
EDUCATION OF THE CITY OF NEW
YORK, et al.,

Defendants.
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No. 75 C 763

June 12, 1975

MEMORANDUM and ORDER

BRUCHHAUSEN, D. J.

The plaintiff moves for a preliminary injunction, restraining the newly elected members of Community School Board, Twenty-five, from taking office.

On May 6, 1975 and election was held for membership on the Boards of the thirty-two Community School Districts, within the City of New York. The plaintiff was a duly designated candidate, among eighteen others, for election to the Community School Board of Community School District Twenty-five.

The plaintiff instituted a similar action in the New York Supreme Court, Queens County, on essentially the same facts as herein alleged and requested postponement of the election, scheduled for May 6, 1975. It was denied.

The issue herein is whether a substantial Federal question is presented.

Federal Courts are precluded from assuming jurisdiction over Municipal Corporations and their subdivisions. See *Monroe v. Pape*, 365 U.S. 167; *Moor v. County of Alameda*, 411 U.S. 693 and *City of Kenosha v. Bruno*, 412 U.S. 507. The Federal Courts should abstain until State proceedings, including appeal are completed.

See also *Gangemi v. Sciafani*, 506 F. 2d 570, 571, Circuit 2, and *Coalition for Education in District One v. Board of Elections*, 495 F. 2d 1090, 1094.

Upon due deliberation, it is ordered that the plaintiff's motion be and it is hereby denied and it is further ordered that the complaint be and it is hereby dismissed for lack of a substantial Federal issue.

Copies hereof will be forwarded to the plaintiff and the Corporation Counsel of the City of New York.

/s/ WALTER BRUCHHAUSEN

Senior U. S. D. J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RUTH E. BUCK,

Plaintiff,

-against-

THE BOARD OF ELECTIONS OF THE
CITY OF NEW YORK; THE BOARD OF
EDUCATION OF THE CITY OF NEW
YORK; IRVING ANKER,
individually and as Chancellor
of Schools of the City of
New York; et al.,

Defendants.

MEMORANDUM OF LAW OF DEFENDANTS
BOARDS OF EDUCATION AND ELECTIONS
OF THE CITY OF NEW YORK, COMMUNITY
SCHOOL BOARD TWENTY-FIVE AND
IRVING ANKER

W. BERNARD RICHLAND

Corporation Counsel

Municipal Building

New York, N.Y. 10007

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
RUTH E. BUCK, :

Plaintiff, :

-against- :

THE BOARD OF ELECTIONS OF THE CITY OF :
NEW YORK; THE BOARD OF EDUCATION OF :
THE CITY OF NEW YORK; IRVING ANKER, :
individually and as Chancellor of :
Schools of the City of New York; :
THE COMMUNITY SCHOOL BOARD OF SCHOOL :
DISTRICT #25, QUEENS; THE PRESIDENTS' :
COUNCIL, DISTRICT #25, QUEENS; DOROTHY :
KAYE, individually and as President of :
the Presidents' Council, District #25; :
and others whose identities are unknown, :

Defendants. :
-----X

MEMORANDUM OF LAW OF DEFENDANTS
BOARDS OF EDUCATION AND ELECTIONS
OF THE CITY OF NEW YORK; COMMUNITY
SCHOOL BOARD TWENTY-FIVE AND
IRVING ANKER

Preliminary Statement

This is an application by plaintiff pro se for
a preliminary injunction and related relief. Essentially
plaintiff seeks on this motion, a preliminary injunction
restraining the newly elected members of Community School
Board Twenty-five from taking office.

THE FACTS

On May 6, 1975 an election was held for membership on the board of the thirty-two community school districts within the City of New York. Plaintiff was a duly designated candidate, among eighteen others, for election to the Community School Board of Community School District Twenty-five. On May 5, 1975 plaintiff was heard on a proceeding brought in New York Supreme Court, Queens County, on essentially the same facts as herein alleged, and requesting a postponement of the May 6, 1975 election. The application was denied. The present application in this court seeks to restrain defendants from bringing the lawfully elected candidates in community school board twenty-five from taking office.

THE ISSUE

At issue is whether the complaint and its supporting papers state a cause of action involving a substantial federal question.

POINT I

THE COMPLAINT SHOULD BE DISMISSED
AGAINST DEFENDANTS BOARDS OF
ELECTIONS AND EDUCATION AND COMMU-
NITY SCHOOL DISTRICT TWENTY-FIVE

This is a civil rights action commenced pursuant to 42 USC 1983 and 42 USC 1986 (Complaint paragraph "1") Under the doctrine of Monroe v. Pape 365 US 167, federal courts are precluded from assuming jurisdiction over Municipal corporations and their subdivisions. See also Moor v. County of Alameda 411 US 693; City of Kenosha v. Bruno 412 US 507. The allegations in paragraphs "4", "5" and "7" of the complaint, therefore, require dismissal of the complaint as to defendants Boards of Elections and Education of the City of New York and Community School District Twenty-Five.

POINT II

PLAINTIFF HAS FAILED TO EXHAUST HER STATE COURT REMEDIES

Plaintiff having instituted an action on the same facts as herein alleged in state court should pursue her state court remedies. The federal court should abstain in state election cases until state court proceedings are completed. As the Second Circuit notes in Gangemi v. Sclafani 507 F 2d 570 (1974) at p. 571:

"We agree with the position of the appellee Board of Elections that normally federal courts should abstain in state election cases until the state proceedings are completed. Railroad Comm'n v. Pullman Co 312 US 496, 61 S Ct 643, 85 L. Ed 971 (1941)."

As is clear from the Gangemi decision, plaintiff should pursue an appeal in the State courts.

POINT III

THE FACTS ALLEGED BY PLAINTIFF ARE
INSUFFICIENT TO GRANT THE DRASTIC
RELIEF REQUESTED.

Since the institution of school decentralization in New York City in 1969 and the first biannual school board elections of 1970, only once was a new election ordered by a district court. That case was affirmed on appeal by the Second Circuit because, as the Court notes in Coalition for Education in District One v. Board of Elections 495 F2d 1090 at 1094:

"...within the bounds of rationality the framing of decrees should take place in the District rather than the Appellate Courts."

But as the Court further admonishes at 495 F2d

1093

"We have serious doubt whether if any of us had been sitting as the district judge, we would have entered the orders here under review and we therefore do not wish our affirmance to be taken by district judges as a mandate to reach the same result on similar facts."

Certainly the facts as found in the Coalition case are far more drastic and severe than those even alleged in this action.

CONCLUSION

Plaintiff's application should be denied and
the complaint dismissed for lack of a substantial federal
issue.

Respectfully submitted,

W. BERNARD RICHLAND
Attorney for New York City
Boards of Elections and
Education, Community School
Board Twenty-five and
Irving Anker
Municipal Building
New York, N.Y. 10007
Tel. 212 566-8391

WILLIAM P. DeWITT
Assistant Corporation Counsel
of Counsel

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
RUTH E. BUCK,

Plaintiff,

-against-

THE BOARD OF ELECTIONS OF THE CITY OF
NEW YORK; THE BOARD OF EDUCATION OF
THE CITY OF NEW YORK; IRVING ANKER,
individually and as Chancellor of
Schools of the City of New York;
THE COMMUNITY SCHOOL BOARD OF SCHOOL
DISTRICT #25, QUEENS; THE PRESIDENT'S
COUNCIL, DISTRICT #25, QUEENS; DOROTHY
KAYE, individually and as President of
the President's Council, District #25;
and others whose identities are unknown,

Defendants.
----- X

: CIVIL ACTION

: #75C 763

: AFFIDAVIT IN OPPOSITION
: TO MOTION AND IN SUPPORT
: OF CROSS-MOTION

STATE OF NEW YORK }

COUNTY OF QUEENS }

ss.:

DOROTHY KAYE, being duly sworn, deposes and says:

1. I make this affidavit both individually and as
President of the President's Council of District 25, Queens
County. I submit this affidavit in opposition to plaintiff's
motion brought on by Order to Show Cause dated May 19th, 1975,
granted by JUDGE BRUCHAUSEN, which seeks various items of relief,
and in support of this defendant's and the other named defendants'
motion to dismiss plaintiff's complaint pursuant to permission
granted by JUDGE BRUCHAUSEN.

BACKGROUND

2. Deponent is the elected President of the President's Council of District 25, Queens, having been elected by majority vote of the Presidents of the twenty-nine (29) Parent Associations (PA) and Parent-Teacher Associations (PTA) of the public and junior high schools in said district. I serve without vote. This position is wholly unsalaried and voluntary and, contrary to plaintiff's allegations in her complaint, said President's Council is a wholly unofficial body having no statutory origin or authority.

Your deponent, in consultation with the members of the President's Council, decided to actively participate in the school board elections scheduled for May 6, 1975, in the belief that the parents of our school children had the major stake in the composition of the Community School Board in District 25. We delegated one of our members to attend a course given by the United Parents Association (UPA) to educate the public on the school board election procedures. This isolated contact with the UPA is what plaintiff sees as a grand conspiracy or scheme in her complaint. It was then decided to form a Parents Community School Board Election Committee which would help coordinate the election activities of the various parent associations, interview candidates and supply legal and public relations guidance to parent groups. This wholly legitimate and legitimately conducted activity is now characterized by plaintiff as a conspiracy or scheme designed

to obstruct the law, to subvert the democratic process and a democratic school board election, and to further the racist policies of the United Federation of Teachers and the New York City Board of Education. Finally, it is deemed by plaintiff a violation of her right to due process and equal protection under the Constitution for which she invokes this court's jurisdiction.

3. I respectfully submit that these allegations are contrary to the facts, wholly unsupported, and exist solely in the mind of plaintiff who cannot or will not accept her defeat as a candidate for the Community School Board. I am informed by my attorney and verily believe that plaintiff's complaint is legally and factually insufficient and that it should be dismissed for the reasons hereinafter stated.

DEFENDANTS' CROSS-MOTION TO DISMISS

4. Plaintiff's complaint seeks a judgment under Section 2201 U.S.C. declaring that plaintiff's rights have been violated. It further seeks a preliminary injunction restraining the duly elected School Board members from taking office on July 1, 1975, and directing the holding of a new school board election in District 25.

LACK OF JUSTICIABLE CONTROVERSY

5. A reading of plaintiff's complaint fails to reveal the existence of a justiciable controversy between plaintiff and myself within the contemplation of Section 2201. Stripped of its

wholly conclusory allegations, plaintiff's complaint against deponent can be summed up as follows:

(a) That the parent organizations in District 25 distributed promotional material to an estimated 50,000 parents, which material supported nine or ten favored candidates (Par. 11) Complaint).

(b) That the Parents Association of District 25 have not acted in the public interest or in the interest of parents in general (Par. 16 Complaint).

(c) That deponent and the President's Council illegally supported favored candidates, and set up a Parents Community School Board Election Committee to obstruct the law and to illegally support "selected" candidates (Par. 18 Complaint).

(d) That I participated in a scheme in concert with the United Parents Association to evade the Election Law and Board of Education regulations as set forth in Special Circular 57 (Par. 19 Complaint).

(e) That the Candidates Nights were held by a "mock organization", to wit, the Parents Community School Board Election Committee and conducted so as to promote the "selected" candidates of the said committee (Par. 22 Complaint).

6. I am informed by counsel that the foregoing allegations of the complaint relating to this defendant fall far short of posing that substantial controversy between plaintiff and

myself as parties having adverse legal interests of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

7. Assuming, arguendo, that plaintiff's allegations are true, I submit that plaintiff has not shown that she has been deprived by these defendants of due process or the equal protection of Section 2590 et seq. of the Education Law and the regulations promulgated by the Board of Education.

At the outset, all declared candidates including plaintiff were invited to attend the screening sessions held on March 7th and 19th, 1975, by the Elections Committee, but plaintiff and three others declined to do so. Thereafter, 10 candidates of the 17 who appeared were endorsed and each P.A. or P.T.A. then selected their individual first choice on the slate after voting on the slate as a whole. In accordance with Special Circular 57 dated February 10, 1975, each P.A. or P.T.A. thereafter publicized its own slate by including in their normal bulletins messages urging their membership to vote and stating the names of the candidates being supported by their P.A. or P.T.A. (see EXHIBIT A annexed).

In addition, the Parents Community School Board Election Committee (hereinafter referred to as the Elections Committee) disseminated campaign material through its individual members and wholly apart from the normal P.A. and P.T.A. channels aforementioned. Although plaintiff objects to this practice, I am

informed and verily believe that it is entirely legal and proper under the Election Law which clearly contemplates the creation of such committees. Accordingly plaintiff's complaint is unfounded wherein she complains about these distributions (Paras. 11 and 18 Complaint).

8. Plaintiff's complaint (par. 16) is vague and wholly fails to raise any justiciable issue when it alleges that the Parent Association of District 25 hasn't acted in the public interest. It should be disregarded by this court and stricken.

9. Plaintiff's complaint (Par. 19) is equally deficient when it alleges that these defendants violated Special Circular 57 above-mentioned. As indicated above, the P.A. and P.T.A. groups were meticulous in their observance of Special Circular 57, and the Election Committee did likewise. As aforementioned, the "scheme" alleged by plaintiff is a creature solely of her imagination and has no basis in fact. Her complaint is against the contents of Special Circular 57 itself, not against these defendants.

10. Plaintiff's allegations concerning the conduct of the Candidate's Nights are equally specious. The President's Council ran these events at the specific urging of the Community School Board of District 25, since that body felt there would be a conflict of interest if they ran it when five of their incumbent members were candidates for reelection. Plaintiff participated in two of the four events which were jointly sponsored by the

President's Council and the host school. The District Superintendent, in turn, notified all school principals who, in turn, notified the school parents (EXHIBITS B, B-1, B-2, B-3). Plaintiff's complaints concerning the conduct of these meetings are unworthy of serious consideration by this court and fail to raise any justiciable issue. Indeed, if plaintiff's complaint is to be believed, given the "stacked" nature of the audience she could not have persuaded them to support her even if the questions were not "loaded" and the chairmen not "biased" against her! But, again, the bias and conspiracy that plaintiff sees exists solely in her mind and has no existence in fact.

It should be noted that another "independent" candidate, MR. STANLEY WITTY, ran without any endorsement from the President's Council or a P.A. and won election to the school board by dint of his own hard work. This amply illustrates the utter baselessness of plaintiff's complaints concerning this election.

PLAINTIFF'S STATE COURT REMEDIES

11. I am informed by counsel that plaintiff cannot resort to this court without first exhausting her remedies under New York State law. Plaintiff has failed to proceed under Section 330 of the Election Law following the election of May 6th, nor has she appealed from the dismissal of the proceedings instituted by her before JUSTICE KUNZEMANN in the Supreme Court, Queens County, prior to the election. Accordingly, this court should decline

jurisdiction. Similarly, although the Chancellor of the Board of Education specifically set up a Fair Campaign Practised Committee to deal with complaints such as this plaintiff's (EXHIBIT C), to my knowledge she completely failed to avail herself of its facilities.

LACK OF NECESSARY PARTIES

12. Plaintiff's complaint fails to name as defendants the successful candidates in the May 6th election although their election is sought to be set aside. I respectfully submit that they are indispensable parties without whose presence this action is totally defective. Accordingly, the complaint should be dismissed on this additional ground.

13. As aforementioned, I have been named as a defendant in this vicious lawsuit solely because I am President of the President's Council and committed to the betterment of our public school system. I have a child enrolled in I.S. 237 in District 25. Plaintiff has seen fit to make me a victim of her vendetta against the Board of Education, the U.P.A., the U.F.T. and all others who she views as conspirators against her. Only I am forced to retain private counsel with its attendant expense, since all other defendants are represented by the Corporation Counsel.

I urge this court to strike through the morass of vindictiveness and conclusory charges in plaintiff's complaint and expose this action for the empty and baseless thing it is

5.

by dismissing it on the merits as to myself and the President's Council of District 25. To permit this complaint to stand or to permit plaintiff to replead can only serve to encourage plaintiff and others like her to abuse the legal process and, in so doing, discourage volunteers like myself from participating in school affairs and elections and penalize us for our honest efforts.

CONCLUSION

14. The complaint should be dismissed on the merits with appropriate costs.

Sworn to before me this
3rd day of June, 1975

/s/
DOROTHY KAYE

STANLEY POSESS
Notary Public, State of New York
No. 41-8414525
Qualified in Queens County
Commission Expires March 30, 1976

PUBLICITY

A publicity campaign will be conducted through all communications media preceding the March registration and the elections in May.

DISTRIBUTION OF ELECTION MATERIAL BY PARENTS ASSOCIATIONS

The Supreme Court of the State of New York ordered on April 25, 1973 as follows:

Parents Associations and Parents-Teachers Associations may distribute through the children only their normal bulletins to support candidates in the Community School Board Elections. The Bulletins may not contain inserts for this purpose. No other campaign material supporting particular candidates and/or slates of candidates may be distributed through the children.

RELEASE OF NAMES OF PUPILS' PARENTS AND THEIR ADDRESSES

Heads of schools are reminded that all the procedures and regulations concerning the release of information from pupils' records, including addresses, remain the same as in the past. (Special Circular No. 63, 1961-1962 and General Circular No. 5, 1967-1968). In no case are lists of names and addresses of pupils' parents to be released to any group for any reason whatsoever. State Education Commissioner Ewald B. Nyquist sustained this policy in a decision rendered on April 16, 1973

CAMPAIGN ACTIVITY BY SCHOOL AND DISTRICT PERSONNEL

1. In their official capacities during school hours all school and district personnel shall maintain a posture of complete neutrality with respect to all candidates.

2. School and district facilities and supplies may not be used on behalf of any candidate, candidates or slate of candidates, except as provided in above section of this Circular entitled "Distribution of Election Material by Parent Associations."

School and district personnel may not be involved in any activities on behalf of any candidate, candidates or slate of candidates during the daily period of time when they are officially employed as such, including lunch and preparation periods.

Pupils may not be involved in any activities on behalf of any candidate, candidates or slate of candidates, except as provided in above section of this Circular entitled "Distribution of Election Material by Parents Associations."

3. There is to be no display of posters or other visual

OFFICE OF COMMUNITY SUPERINTENDENT JOAN M. KENNY
DISTRICT 25 Queens

April 10, 1975

District Circular #83, 1974-1975

To Heads of Schools

Ladies and Gentlemen:

Re: Community School Board Elections
District Science Fair

1. Community School Board Elections

- 1.1 Community School Board 25 has authorized that Candidates' Night be held under the auspices of the Presidents Council and the Parents Association of the following schools:

<u>Date</u>	<u>Time</u>	<u>Place</u>
April 17, 1975	8:00 P.M.	JHS 194, 154-60 17 Avenue, Whitestone
April 24, 1975	8:00 P.M.	I.S. 237, 46-21 Coldee Street, Flushing
April 29, 1975	8:00 P.M.	JHS 185, 147-25 25 Drive, Flushing
April 30, 1975	8:00 P.M.	P.S. 200, 70-10 164 Street, Flushing

All candidates are invited to participate.

- 1.2 The Office of Public Affairs has stated that voting instructions for the Community School Board elections have been printed in Italian.

Sufficient copies are enclosed for distribution to your students. Two copies have been sent to the Parents Association. If additional copies are needed, kindly contact the Office of Public Affairs, 596-4190.

2. District Science Fair

Posters announcing the annual District Science Fair are enclosed. Each school will receive four copies and each Parent Association two copies. Kindly display the posters in prominent places, such as school lobbies and bulletin boards.

Very truly yours,

/s/

Joan M. Kenny
Community Superintendent

JMK:ij
cc: P.A. Presidents
UFT

EXHIBIT B

21

MEET THE CANDIDATES
FOR
COMMUNITY SCHOOL BOARD ELECTIONS
at

I. S. 237

46-21 Colden St.

April 24th - - - 8 P.M.

All Candidates have been invited

Essential you attend
==

Sponsored by the President's Council
P.A's and P.T.A's of District 25

EXHIBIT B-1

(Typed copy of handwritten notice)

COMMUNITY SCHOOL BOARD 25

70-30 164 Street

Hy Rosner
President

Flushing, New York

11365

Diane Demsky
Executive
Assistant

591-7795

Harold McLaughlin
Vice President

Scott Wycherley
Secretary

PRESS RELEASE

Nathan Abbe
Treasurer

Edith Bergtraum
Edward A. Cibbarelli
Thomas T. Kilhenny
Grace Krampe
Muriel Mehring

From: Hy Rosner, President, Community School Board 25

Re: Candidates' Nights

Community School Board 25 has authorized the following schools to hold Candidates' Nights on the dates indicated:

J.H.S. 194 - 4/17 - 8:00 P.M.
(154-60 17th Avenue, Whitestone)

I.S. 237 - 4/24 - 8:00 P.M.
(46-21 Colden Street, Flushing)

J.H.S. 185 - 4/29 - 8:00 P.M.
(147-26 25th Drive, Flushing)

P.S. 206 - 4/30 - 8:00 P.M.
(70-30 164th Street, Flushing)

Meetings will be held under the auspices of Presidents Council, District 25, and the Parents Association of each school.

All candidates are invited to participate.

4/8/75

EXHIBIT B-2

MEET THE CANDIDATES

April 9, 1975

Dear Parents:

Community School Board elections will take place on Tuesday, May 6, 1975.

To help you to acquaint yourself with all of the candidates running for school board office, the Presidents' Council, the P.T.A.'s and P.A.'s of District 25 Queens are sponsoring Candidates' Nights at four central schools. All the candidates have been invited to speak and to answer your questions. Attendance at one of these meetings will help you to be better informed and will enable you to make intelligent selections.

The meetings will take place in the auditorium of the following schools on the date specified:

Thursday, April 17th	JHS 194	8:00 P.M.
Thursday, April 24th	I.S. 237	8:00 P.M.
Tuesday, April 29th	JHS 185	8:00 P.M.
Wednesday, April 30th	P.S. 200	8:00 P.M.

Thankyou.

Sincerely,

/s/

Edward L. Solomon
Principal

els:hrc

EXHIBIT B-3

ADDENDUM NO. 3 TO SPECIAL CIRCULAR NO. 57, 1974-1975

BOARD OF EDUCATION OF THE CITY OF NEW YORK

OFFICE OF THE CHANCELLOR

April 22, 1975

TO ALL COMMUNITY SCHOOL BOARD MEMBERS, ALL SUPERINTENDENTS, EXECUTIVE DIRECTORS, DIRECTORS, HEADS OF BUREAUS AND PRINCIPALS OF ALL DAY SCHOOLS

Ladies and Gentlemen:

COMMUNITY SCHOOL BOARD ELECTIONS

May 6, 1975

FAIR CAMPAIGN PRACTICES COMMITTEE

I am pleased to announce the establishment of a Fair Campaign Practices Committee to advise me concerning allegations of violations of the directives contained in Special Circular No. 57, 1974-75, and its Addenda.

The Committee is chaired by Dr. Aaron Brown, Professor of Urban Education at Long Island University and former Member and Vice-President of the New York City Board of Education. Other members of the Committee are Mr. Robert Contad, attorney, and trustee and former president of the City Club of New York; Mr. Sidney W. Dean, Jr., business and marketing executive and trustee and former president of the City Club of New York; Dr. Charles Garrett, Professor of History at C.W. Post College and trustee and former president of the City Club of New York; and Mr. Hector I. Vazquez, instructor of Urban Affairs at Queens College and former Member of the New York City Board of Education.

The Committee will receive, investigate and make findings of facts regarding alleged abuses relating to the use of public funds, school facilities and school personnel or pertaining to the rights of students, parents and voters as they involve the schools. The Committee will also make recommendations to me for appropriate action. All other alleged abuses should be referred directly to the Board of Elections. If the Committee receives allegations which do not pertain to directives in Special Circular No. 57, 1974-75 and its Addenda, it will forward them to the Board of Elections for appropriate action.

Community School Districts and schools have the first obligation to live up to the directives we have issued. Allegations of abuses will be reported in the first instance to the Districts, but if they cannot be taken care of locally they will be referred to the Fair Campaign Practices Committee.

Complaints about abuses of directives should be sent to Assistant Superintendent Jerome G. Kovalcik, Office of Public Affairs, Board of Education, 110 Livingston Street, Brooklyn, N. Y. 11201, who together with Mrs. Elizabeth B. Clerk, Special Assistant in the Division of Community School District Affairs, represents the Board of Education and the Chancellor in matters related to the Elections.

I have assigned two additional staff members to assist the Fair Campaign Practices Committee as investigators: Mr. Max Shapiro of the Office of Public Affairs, and Mr. Van L. Turner of the Division of Community School District Affairs.

Very truly yours,

IRVING ANKER Chancellor

EXHIBIT C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RUTH E. BUCK,

Plaintiff

-against-

THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK; THE
BOARD OF EDUCATION OF THE CITY OF NEW YORK; IRVING
ANKER, individually and as Chancellor of Schools of
the City of New York; THE COMMUNITY SCHOOL BOARD OF
SCHOOL DISTRICT #25, QUEENS; THE PRESIDENTS' COUNCIL,
DISTRICT #25, QUEENS; DOROTHY KAYE, individually and
as President of the Presidents' Council, District
#25; and others whose identities are unknown,

Defendants.

75C 763

CIVIL ACTION

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COMPLAINT

AND

DEMAND FOR

JURY TRIAL

1. This is a Civil Action brought to redress the deprivation under color of the statutes, ordinances, regulations, customs and uses of the State and City of New York, of rights, privileges and immunities secured to the plaintiff by the Fourteenth and First Amendments to the Constitution of the United States. This action is brought under and jurisdiction is conferred upon this Court by Title 42 USC 1983, 42 USC 1985, 42 USC 1986, 28 USC 1343, 28 USC 1441 (3).

2. This is a proceeding for injunctive and declaratory relief and punitive damages. Plaintiff seeks declaratory judgment as to plaintiffs rights and defendants duties as to the election of school board members of School District #25, Queens, mandated by Section 2590 of the Education Law of the State of New York. This action is brought to redress the deprivation to plaintiff of constitutionally guaranteed rights caused by individual acts of individual defendants, their managers, agents and employees; and also by acts done in furtherance of conspiracy to deprive plaintiff as hereinafter more fully appears.

3. Plaintiff is a citizen of the United States and a resident of the State and City of New York, a parent of two daughters attending New York City public schools, and is a defeated candidate for election to school board #25,

Queens.

4. Defendant Board of Elections of the City of New York is the corporate body vested with direction and control of governmental popular elections of the City of New York and is given substantial control over the Community School Board Elections by Section 2590 of the Education Law of the State of New York.

5. Defendant Board of Education of the City of New York is the corporate body vested with the direction and control of the New York City school system and given substantial control over community school board elections by Section 2590 of the Education Law of the State of New York.

6. Defendant Irving Anker is the Chancellor of Schools of the City of New York and is the chief executive and administrative officer of the New York City Public School System.

7. Defendant Community School Board of School District #25 is the corporate body vested with the direction and control of the public elementary and junior high schools in School District #25 Queens and vested with authority by Section 2590 of the Education Law of the State of New York.

8. The parent associations and parent-teacher associations in school district #25 are mandated by Section 2590-d of the Education Law of the State of New York. The Presidents' Council of District #25, Queens is an official association of the presidents of the individual parent associations and parent-teacher associations of the schools located in District #25.

9. Dorothy Kaye is the President of the Presidents' Council, District #25, Queens and represents, makes recommendations to and for, and acts in a liaison capacity for the presidents of the parent associations and parent-teacher associations of the public schools located in School District #25.

10. Popular elections for school board members of the various community districts in New York City, including District 25, Queens, were held on May 6, 1975. Plaintiff, a permanently registered voter residing within the boundaries of School District #25 and not employed by the district, secured

more than the required 200 signatures on her nominating petition and she together with eighteen other candidates was placed on the ballot, for election to the community school board of school district #25, Queens. Nine candidates, not including plaintiff, were elected on May 6th.

11. Through intentional, illegal, unfair and discriminatory use of public school facilities in District #25 including use of teacher time, children, and quasi-judicial parent associations, "promotional" material urging support of nine or ten "favored" candidates, and not all candidates, was distributed to an estimated 50,000 parents in school district #25/ ^{in April & early May} and violating plaintiff's constitutionally guaranteed rights to equal protection of the statutes and equal opportunity in the public schools.

12. Furthermore and in addition "promotional" material urging support of the "favored" candidates was made available to the public inquiring at the schools concerning the community school board election, the said material having been available at least in the days immediately preceding the election. A slate of "preferred" candidates as endorsed by the United Federation of Teachers was received at William Carr Junior High School, Queens, on May 1, 1975; a slate of UFT candidates was also available at Flushing High School, Queens on May 2, 1975; a palm card of eight "favored" candidates together with a full page entitled "Re-elect Mr Silberstein" was given at P.S. #69, Queens of School District #20; at P.S. 20, Queens, on May 1, 1975 a list of ten "favored" candidates as endorsed by the Parent-Teachers Association was given to an inquirer. The magnitude of the impact of the activities indicated here as well as in paragraph 11 above is indicated by the mere amount of 10,441 total valid votes cast in District #25 on May 6th.

13. Meanwhile, what is believed to have been the "official" statement of candidates, printed in both English and Spanish, included 80 word statement of each candidate, said statements having been invited by the League of Women Voters for official publication, printing, newspaper advertising and distribution at designated places where candidates addressed audiences, and dis-

tribution through the public schools. Plaintiff alleges that the official statements were purposely withheld from the public, were not given out to inquirers at schools, were not distributed through children equally with preferred candidates and were purposely not advertised in newspapers as in former school board elections under the convenient pretense of budget austerity and lack of funds.

14. This is not the first confrontation that plaintiff has had with officials of the New York City public schools. Plaintiff worked in the New York City Schools as teacher and guidance counselor from 1957 to 1969 and has had considerable first-hand experience with high officials within the Board of Education. Plaintiff belongs to a minority group sometimes referred to in derogatory terms as WASP (White, Anglo-Saxon Protestant), being White, Gentile by birth and of German and Alsation parentage. She is undenominational Christian and a tenacious follower of Jesus Christ. Over the years she has been severely persecuted by officials of the New York City Board of Education, especially by Jews and apparently by some White, Roman Catholics. Plaintiff is a controversial figure, having demonstrated her willingness to cross popular positions by having worked during the 1968 teacher strikes and by having actively grieved through established channels within the Board of Education because of cruel and unfair treatment to Black students while she was a guidance counselor at Franklin K. Lane High School. Plaintiff continues to hold and voice unpopular beliefs, i.e. that the \$2.6 billion dollar school budget is entirely too large; and that there are no problems in the New York City public school system that honest and loving people could not solve. The Board of Education has repeatedly tried since 1969 to silence plaintiff unsuccessfully and in 1970 it attempted to exchange plaintiff's constitutional right of free speech for a disability pension, said pension having been offered by the late Murray Bergtraum through attorney David Lubash, and although plaintiff had never had a medical examination on which any such offer could be based and she had excellent attendance at Franklin K. Lane High School.

15. Based upon the actions of some of its employees, supervisors, and managers, the New York City Board of Education is an extravagant, wasteful, unlawful and racist organization. Through the purposeful acts of some of its employees it prevents Blacks from learning and ousts them en masse (Case #69C 326, McKnight et al v. The Board of Ed. of N.Y.C., et al., this court), it encourages advertising campaigns for keeping blacks out (Assistant Principal, Mary Cohen at Franklin K. Lane High School around September 1967), it is determined to keep White Anglo-Saxon Protestants (WASPS) out of the school system (Speech of Dr. Eli Ginzburgh at the High School of Fashion Industries, May 1965) it offers disability pension in exchange for agreement not to litigate (see par. 14 above), it acts in collusion with the United Federation of Teachers and Council of Supervisory Associations to the detriment of the public in times of strikes as in the 1968 teacher strikes, plaintiff, for one having been locked out of her school by her striking principal, Morton Selub; it has failed people on examinations for positions by "mistake" (plaintiff in 1959); it leaves people off promotional lists by "mistake" (Plaintiff in 1964); it uses its medical division to deny tenured and other employees due process, taking their jobs and pay away from them (Francine Newman Supreme Court decision 1975 requiring trial of issue of denial of due process; also decision of U.S. Supreme Court re John Lombard); it has apparently used its influence or other illegal strategy to prevent legitimate inquiry into its affairs by the New York City Commission on Human Rights, by the offices of the district attorneys, etc. (the failure of the Brooklyn district attorney's office to look into/ ^{complaint in} the matter of the sale of forged records at Franklin K. Lane High School around 1969; said records having been sold for \$50.). It is on this background that the instant lawsuit is brought and "rigging" the current school board elections is just another indication of the true nature of large segments of the Board of Education.

16. The public schools belong to all of the people and not to certain special interest groups. The parent associations of District #25 are 30

politically oriented, racially oriented special interest groups. They do not, in general, represent parents of public school children, but rather represent only segments of such parents. They certainly do not represent the public. They claim to represent all parents including plaintiff, but of course, cannot because of the constitutionally guaranteed right of plaintiff and other parents of free association. In the instant election, the parent associations of district #25, through their leadership including defendant Dorothy Kaye, has not acted in the interest of the public or of parents in general, but instead, has become a vehicle for obstructing a truly democratic election. Furthermore, the parent associations are minorities; it is believed that their dues-paying membership is but a small fraction of the total parents. Also where there are from 1400 to 2000 parents of students in a given school, the regular monthly meetings of the parent association is attended largely by from 15 to 50 parents.

17. The public schools in School District #25 are believed to provide the confidential addresses of parents of students to the parent associations without the knowledge or prior consent of the parents. Thus plaintiff receives unsolicited material from the parent association of P.S. 32 where her eight year old daughter attends and plaintiff also receives unsolicited material from the parent association of Francis Lewis High School where her fourteen year old daughter attends. Thus the parents have also become the recipients of unsolicited "newsletters" automatically sent home through school personnel who pass them to the children.

18. Defendant Dorothy Kaye, President of the President's Council, and residing in Forest Hills, and not within the boundaries of School District #25, as well as other parent association leaders know of the illegality of using their organizations to support favored candidates, but did so claiming it was "justified" by the ruling of Schools Chancellor Irving Anker who purposely and wrongly stated in Circular 57 dated February 10, 1975 (Circular of the Board of Education of the City of New York) that the Supreme Court of the State of New York ordered that Parents Associations may distribute through the children

normal bulletins to support candidates in the Community School Board Elections. The parent association leaders, yet unsatisfied, purposely used their quasi-judicial positions to seek out and find those of its members who were willing to form a separate "committee" called the Parents' Community School Board Election Committee of District 25 for the specific purpose of obstructing the law and for continuing under another guise to distribute information about and promote "selected" candidates. Thus, it is believed that thousands of handbills were distributed to the houses of the general public (and not confined to parents) in school district #25.

19. The scheme described above was accomplished through the consultation and agreement of Dorothy Kaye and others of the parents associations together with staff members of the United Parents Association and including lawyers for the United Parents Association. It is believed that meetings held to subvert a truly democratic election were held every other Thursday for about three months prior to the school board election and for the purpose of having the Presidents' Council work hand in hand with the United Parents' Association although it should be noted that not all of the parents associations in district #25 even have membership in the United Parents' Association!

20. Decentralization of the schools came about in New York City in 196 at which time the public elementary, intermediate and junior high schools were placed under control of elected local school boards. Prior to the enactment of the law, the United Federation of Teachers was much opposed to decentralization and that organization spent much time and money advertising and lobbying against decentralization. The United Federation of Teachers is composed of a largely Jewish membership; decentralization would presumably have placed the schools under control of more Blacks. The law has provided for proportional representation, a procedure of electing to insure a minority voice on school boards. Such minority representation in District #25 has been guaranteed to fail because of the manipulation of the election by the schools and by use of its facilities. The supervisory positions within the Board of Educa-

tion are held by mostly Jews and some Roman Catholics, it is believed, and there are infinitesimally few, if any, White Protestants (WASPS) on the supervisory staff. The United Federation of Teachers and the Board of Education act in such a way that would indicate that they are essentially one and the same, as demonstrated in 1968. The parent associations and parent-teacher associations appear to be emerging, especially since decentralization, as a branch of the same United Federation of Teachers-Central Board of Education organization.

21. The "rigged" election in district #25 resulted in the following union endorsed people being elected: Nathan Abbe, Allan Cappallazzi, Edith Bergtraum, Grace Krampe, Joseph LaMonte, Harold McLoughlin and Delores Tannenbaum, the latter not endorsed by UFT but believed to have been endorsed by the sister union, the American Federation of State, County and Municipal Employees. This gave the unions seven out of nine seats. The remaining two seats were won by Stnaley Witty, a Rabbi, and by Daniel Castaldo, a parent with three children in the district. The Board is entirely white and believed to consist of only of Jews and Roman Catholics. Of the seven elected with union endorsement, the parent associations of district #25 supported through the facilities of the public schools four: Allen Cappellazzi, Dolores Tannenbaum, Harold McLaughlin and Edith Bergtraum.

22. Canddiates Nights consisted of four nights designated for the purpose of having candidates speak to audiences which were originally believed to have been for the public and in the public interest. They were held in school buildings as follows: On April 17 at Junior High School 194, Whitestone, on April 24 at I.S. 237, Colden Street, Flushing; on April 29, Junior High School 185 on 25th Drive, Flushing, and on April 30th at P.S. 200 on 164th St., Flushing. But it was later noticed that these candidates nights were held by the "mock-organization", the Parents Community School Board Election Committee, the same organization that spread handbills to houses throughout school district #25 endorsing favored candidates. Thus the audiences at the various Candidates Nights, had a significant number of the same people in attendance

as at the other Candidates nights, and what really happened at the Candidates Nights held in the public school buildings was that those pushing the "selected" candidates were public facilities and their quasi-public positions to promote their preferred choices. The questions posed to the candidates were not sincere questions from an unbiased audience, but "loaded" questions to make preferred candidates appear good and those not so favored to be seen in an unfavorable light. The meetings were chaired by biased people and the questions from the audience were written out and screened by the moderator. Likewise, the official 80 word statements of all of the candidates as published by the League of Women Voters and with explanation in both Spanish and English, were not distributed until the last of the four candidates nights. Furthermore, when plaintiff attempted to give copies of her own campaign material to the audience, she was forbidden to do so by defendant Dorothy Kaye who told plaintiff that it was not legal. But Ms. Kaye told plaintiff that she would take a copy which she did.

23. Defendant Irving Anker, in the meantime, was silent on the matter of publicizing information about candidates, and is believed to have participated in the decision not to advertise the statements of the candidates. At the same time, however, through his auspices, and through the auspices of Community School Board of District #25, through the use of school personnel and school facilities and in conjunction with the parent associations, the schools were doing plenty of advertising of favored candidates. In the meantime also Mr. Anker was working with Assistant Superintendent Jerome G. Kovalcik and Mrs. Elizabeth B. Clark concerning complaints and he was setting up a "Fair Campaign Practices Committee" to insure that there would be no violation of the directive that he issued - including the aforementioned direction that parent associations may advertise candidates through their newsletters to be sent home through the children. Dr. Anker, by his silence, and also by failing to do what he is lawfully required to do to insure a fair election is responsible to plaintiff and to the public for his part in allowing the rigging of the election in school district #25.

24. As soon as plaintiff became aware of the problems as indicated

above concerning the election and as soon as she was able, she brought by action in the Supreme Court of the State of New York, Queens, by Order to Show Cause to prevent the election from taking place. The return date of the hearing was May 5th, one day before the election, the court refused to take jurisdiction and there was no time to appeal in the State Courts before the election the following day.

WHEREFORE, plaintiff prays that this Court:

1. Declare that the defendants have violated plaintiff's rights to due process of law and equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States.
2. Restrain defendants from proceeding in any manner to bring the School Board in District #25 elected on May 6, 1975 into office.
3. Grant to plaintiff a preliminary injunction, and, upon final hearing, a permanent injunction against the School Board in District #25 elected on May 6, 1975 taking office.
4. Order defendants to conduct another election for school board members in School District #25 and ordering the defendant Board of Education and Community School Board of District #25 to make available to plaintiff all of the facilities and machinery for sending home papers through students as had been made available to any and/or all individuals or organizations which promoted one or more but less than all of the candidates.
5. Grant to plaintiff \$100,000.00 punitive damages.
6. Grant such other and further relief as may be just and proper.

Dated: Queens, New York

May 16, 1975

/s/
RUTH E. BUCK
Plaintiff, Pro Se
33-38 163 Street
Flushing, New York 11358
212 539-8015